

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

RONNIE SCOTT SMITH,

Petitioner,

v.

E. REYES,

Respondent.

JELDERKS, Magistrate Judge.

Case No. 2:23-cv-00405-JE

ORDER

Petitioner in this 28 U.S.C. § 2254 habeas corpus case asks the Court to grant him summary judgment as to Ground Three of his Petition for Writ of Habeas Corpus. Neither the Rules Governing Section 2254 Cases nor the Court's Scheduling Order (#7) contemplate the filing of a summary judgment motion. Instead, the Court has specifically directed that Respondent file an answer to the Petition, and that Petitioner file a memorandum in support of his Petition 60 days thereafter. The Motion for Summary Judgment is therefore denied without prejudice to Petitioner's right to argue the merits of all grounds for relief, including Ground Three, when he files his supporting memorandum.

Petitioner also asks the Court to compel Respondent to produce certain discovery to bolster his Motion for Summary Judgment. Not only has the Court already denied the Motion for

Summary Judgment, but habeas corpus petitioners are generally not entitled to discovery. *Bittaker v. Woodford*, 331 F.3d 715, 728 (9th Cir. 2003) (en banc). Consistent with this general prohibition, the Court's Scheduling Order specifically tasks Respondent with furnishing the entire state-court record. Petitioner is limited to that record when arguing the merits of his claims, and any additional evidence he seeks to introduce has no bearing on the review of his claims under either 28 U.S.C. § 2254(d)(1) or (d)(2). *See Cullen v. Pinholster*, 563 U.S. 170, 185 (2011); *Gulbrandson v. Ryan*, 738 F.3d 976, 994 n. 6 (9th Cir.2013), *cert. denied*, 134 S.Ct. 2823 (2014). Instead, Petitioner must establish that the state-court decisions denying relief on his claims were unreasonable based upon the records he established during his criminal trial and any post-conviction relief proceeding. *See Pinholster*, 563 U.S. at 186. For all of these reasons, Petitioner's Motions seeking to expand the record through discovery are denied.

CONCLUSION

Petitioner's Motions to Produce (#13 & #19) and his Motion for Summary Judgment (#15) are denied.

IT IS SO ORDERED.

June 21, 2023
DATE

/s/ John Jelderks
John Jelderks
United States Magistrate Judge